IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

Mohan Lal Joshi vs. State of Raj. & another.

(S.B. Civil Writ Petition No.3492/1993)

DATE OF ORDER ::: FEBRUARY 24, 2005

P R E S E N T

HON'BLE MR. JUSTICE PRAKASH TATIA

Mr. D.R. Bhandari, for the petitioner.

BY THE COURT :

Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 15.3.1993 by which finidng has been recorded against the petitioner under Section 17(4) of the Rajasthan Panchayat Act, 1953 (for short "the Act of 1953").

The allegation against the petitioner was that when he was Sarpanch of Gram Panchayat, Khakarmala, Panchayat Samiti, Amet of District Rajsamand, he sold plots to his wife and son against the Rules.

According to learned counsel for the petitioner,

the authority who passed the order was never given the power to pass order as no notification as required under Section 17 of the Act of 1953 delegating the power was ever issued authorising said Shri G.S. Narwarni to pass the order. It is also submitted that the petitioner did not violate any Rules and the land in question was put to auction by the Gram Panchayat and the matter was sent for approval and as per Rules, when the rejection did not receive back or when the approval is not received back, then the law provides that the Gram Panchayat may deem approval by the competnet authority for the sale of land, therefore, the finding recorded against the petitioner is factually as well as legally wrong.

I have considered the submission of learned counsel for the petitioner.

The order dated 15.3.1993 was passed by the State Government itself which is apparent from the order itself and not by any delegatee, therefore, I do not find any substance in the submission of learned counsel. However, so far as challenge to the other findings is concerned, this Court is not inclined to re-examine the matter because of the simple reason that the effect of the impugned order dated 15.6.1993 could have been for maximum period of five years and, therefore, that finding, even if is wrong, it will not

affect the petitioner in any manner so far as his claim to hold the post of Sarpanch or any elected post under the Panchayat Act is concerned.

In view of the above, this writ petition, having no force, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya